

UNITED STATES DISTRICT COURT

District of Massachusetts

HEARTS ON FIRE COMPANY, LLC

Plaintiff,

v.

EIGHTSTAR DIAMOND COMPANY,

Defendant.

SUMMONS IN A CIVIL ACTION

CASE NUMBER:

04-12258 JLT

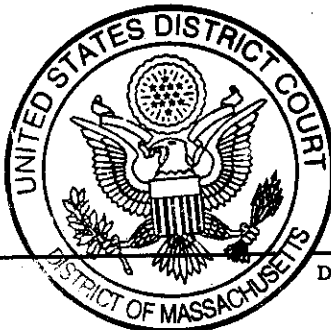
TO: (Name and address of Defendant)

EightStar Diamond Company
52 East Cotati Ave., Suite 115
Cotati, CA 94931

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Robert P. Sherman, Esq.
Mark D. Robins, Esq.
Stephen M. LaRose, Esq.
Nixon Peabody LLP
100 Summer Street
Boston, MA 02110

an answer to the complaint which is served on you with this summons, within twenty (20) days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.



TONY ANASTAS

CLERK

(By) DEPUTY CLERK

OCT 26 2004

DATE

NIXON PEABODY LLP TWO EMBARCADERO CENTER 27TH FLOOR SAN FRANCISCO, CALIFORNIA 94111 (415) 984-8200 575213		
UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA		
HEART ON FIRE COMPANY, LLC Plaintiff (s)	CASE NUMBER: 04-12258 JLT	
 v.	PROOF OF SERVICE SUMMONS AND COMPLAINT (Use separate proof of service for each person/party served)	
EIGHTSTAR DIAMOND COMPANY Defendant (s)		

1. At the time of service I was at least 18 years of age and not a party to this action and I served copies of the (specify documents):

- a. ☒ summons ☒ complaint ☐ alias summons ☐ first amended complaint
☐ second amended complaint
☐ third amended complaint

☒ other (specify): **CIVIL CASE COVER SHEET**

2. Person served:

- a. ☒ Defendant (name):
b. ☒ Other (specify name and title or relationship to the party/business named): **RICHARD VON STERNBERG, AUTHORIZED TO ACCEPT SERVICE OF PROCESS ON BEHALF OF EIGHTSTAR DIAMOND COMPANY**

- c. ☒ Address Where papers were served: **625 EAST COTATI AVENUE**
COTATI, CALIFORNIA 94931

3. Manner of service in compliance with (the appropriate box must be checked):

- a. ☒ Federal Rules of Civil Procedure
b. ☐ California Code of Civil Procedure

4. I served the person named in item 2:

- a. ☐ By Personal service. By personally delivering copies. If the person is a minor, by leaving copies with a parent, guardian, conservator or similar fiduciary and to the minor if at least (12) years of age.

1. ☐ Papers were served on (date): _____ at (time): _____

- b. ☒ By Substituted service. By leaving copies:

1. ☐ (home) at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household, at least 18 years of age, who was informed of the general nature of the papers.

2. ☒ (business) or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers.

3. ☐ Papers were served on (date): **NOVEMBER 1, 2004** at (time): **3:28 PM**

4. ☐ by mailing (by first-class mail, postage prepaid) copies to the person served in item 2(b) at the place where the copies were left in Item 2(c).

5. ☒ papers were mailed on (date): **NOVEMBER 2, 2004**

6. ☐ due diligence. I made at least three (3) attempts to personally serve the defendant.

- c. ☐ **Mail and acknowledgment of service.** By mailing (*by first-class mail or airmail, postage pre-paid*) copies to the person served, with two (2) copies of the form of Waiver of Service of Summons and Complaint and a return envelope, postage prepaid to the sender. (**Attach completed Waiver of Service of Summons and Complaint**).
- d. ☐ **Service on domestic corporation, unincorporated association (including partnership), or public entity. (F.R.Civ.P.4(h)) (C.C.P. 416.10)** By delivering, during usual business hours, a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment of by law to receive service of process and, if the agent is one authorized by statute and the statute so requires, a mailing, by first-class mail, postage prepaid, a copy to the defendant.
- e. ☐ **Substituted service on domestic corporation, unincorporated association (including partnership), or public entity. (C.C.P. 415.20 only)** By leaving during usual office hours, a copy of the summons and complaint in the office of the person served with the person who apparently was in charge and thereafter by mailing (*by first-class mail, postage prepaid*) copies to the persons at the place where the copies were left in full compliance with C.C.P. 415.20. Substitute service upon the California Secretary of state requires a court order. (**Attach a copy of the order to this proof of service**).
- f. ☐ **Service on a foreign corporation.** In any manner prescribed for individuals by FRCP 4(f).
- g. ☐ **Certified or registered mail service.** By mailing to an address outside California (*by first-class mail, postage prepaid, requiring a return receipt*) copies to the person served. (**Attach signed return receipt or other evidence of actual receipt by the person served**).
- h. ☐ **Other** (specify code section and type of service):

5. Service upon the **United States, and Its Agencies, Corporations or Officers.**

- a. ☐ by delivering a copy of the summons and complaint to the clerical employee designated by the U.S. Attorney authorized to accept service, pursuant to the procedures for the Office of the U.S. Attorney for acceptance of service, or by sending a copy of the summons and complaint by registered or certified mail addressed to the civil process clerk at the U.S. Attorneys Office.
- Name of person served:
- Title of person served:
- Date and time of service: (date): _____ at (time): _____
- b. ☐ By sending a copy of the summons and complaint by registered or certified mail to the Attorney General of the United States at Washington, D.C. (**Attached signed return receipt or other evidence of actual receipt by the person served**).
- c. ☐ By sending a copy of the summons and complaint by registered or certified mail to the officer, agency or corporation (**Attach signed return receipt or other evidence of actual receipt by the person served**).

6. At the time of service I was at least 18 years of age and not a party to this action.

7. Person serving (*name, address and telephone number*):

LUDEK POLCAK
WORLDWIDE NETWORK, INC.
75 LILY STREET, 3RD FLOOR
SAN FRANCISCO, CA 94102
(415) 503-0900

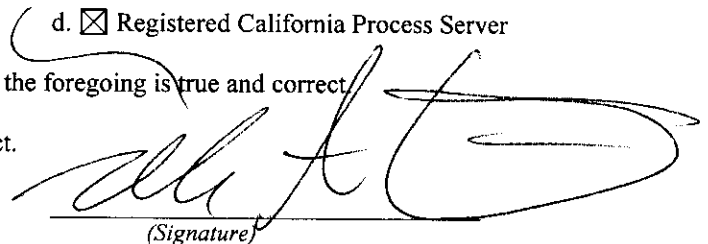
a. Fee for service: \$

- b. ☐ Not a Registered California Process Server
- c. ☐ Exempt from registration under B&P 2235(b)
- d. ☒ Registered California Process Server

8. ☐ I am a California sheriff, marshal, or constable and I certify that the foregoing is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Date: MARCH 25, 2005


(Signature)